

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Andrew Guinan	Team: Team # 4	CCRB Case #: 201301963	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 03/27/2013 5:25 PM	Location of Incident: § 87(2)(b) 115th Precinct stationhouse	Precinct: 115	18 Mo. SOL 9/27/2014	EO SOL 9/27/2014	
Date/Time CV Reported Thu, 03/28/2013 1:08 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 03/28/2013 1:08 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POF Tafara Layne	25167	935961	115 PCT
2. POF Summer Powell	24092	941111	115 PCT
3. SGT Andrew Fitts	00977	938484	115 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Patrick Mccartan	18373	950854	115 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Summer Powell	Abuse: PO Summer Powell entered and searched § 87(2)(b) in Queens.	§ 87(2)(b)
B.POF Tafara Layne	Abuse: PO Tafara Layne entered and searched § 87(2)(b) in Queens.	§ 87(2)(b)
C.SGT Andrew Fitts	Abuse: Sgt. Andrew Fitts entered and searched § 87(2)(b) in Queens.	§ 87(2)(b)
D.POF Tafara Layne	Abuse: § 87(2)(b) in Queens, PO Tafara Layne searched the property of § 87(2)(b)	§ 87(2)(b)
E.POF Tafara Layne	Discourtesy: At the 115th Precinct stationhouse, PO Tafara Layne spoke discourteously to § 87(2)(b)	§ 87(2)(b)

## Case Summary

§ 87(2)(b)'s husband, and § 87(2)(b)'s brother-in-law, filed this complaint by phone with the CCRB on March 28, 2013. On March 27, 2013 at approximately 5:25 p.m., PO Tafara Layne and PO Summer Powell responded to a report of stolen property at the residence of § 87(2)(b) located at § 87(2)(b) in Queens. § 87(2)(b) was not present at the time of the incident. The following allegations resulted from § 87(2)(b) and § 87(2)(b)'s encounter with officers:

**Allegation A) Abuse of Authority: PO Summer Powell entered and searched § 87(2)(b) in Queens.**

**Allegation B) Abuse of Authority: PO Tafara Layne entered and searched § 87(2)(b) in Queens.**

§ 87(2)(g)  
§ 87(2)(b)  
§ 87(2)(b)

**Allegation C) Abuse of Authority: Sgt. Andrew Fitts entered and searched § 87(2)(b) in Queens.**

**Allegation D) Abuse of Authority: Inside § 87(2)(b) in Queens, PO Tafara Layne searched the property of § 87(2)(b)**

§ 87(2)(b), § 87(2)(g)  
§ 87(2)(b)  
§ 87(2)(b)

**Allegation E) Discourtesy: At the 115<sup>th</sup> Precinct stationhouse, PO Tafara Layne spoke discourteously to § 87(2)(b)**

§ 87(2)(b), § 87(2)(g)  
§ 87(2)(b)

This case was deemed ineligible for mediation as a result of § 87(2)(b)'s arrest. All communication with § 87(2)(b) was conducted in Spanish.

## Results of Investigation

### Civilian Statements

**Victim:** § 87(2)(b)

- At the time of the incident, § 87(2)(b) was an § 87(2)(b)-old Hispanic female, standing 5'3" tall, and weighing 130 pounds. She has black hair and brown eyes, § 87(2)(b)

### CCRB Statement

§ 87(2)(b) was interviewed at the CCRB (encl. C4 – C6) on June 25, 2013. She provided a brief phone statement (encl. C3) on April 16, 2013, as well as a follow-up statement on June 4, 2014 (encl. C6a). Her statements are consistent, with exceptions noted below.

On the day of the incident, § 87(2)(b) returned to the apartment of her sister, § 87(2)(b)

§ 87(2)(b) located at § 87(2)(b) in Queens. She had had an argument with her boyfriend, § 87(2)(b) in Jamaica, Queens, regarding a cellphone she claimed belonged to her. § 87(2)(b) had claimed that § 87(2)(b) stole the phone from him and called the police. § 87(2)(b) remained in the apartment for approximately 30 minutes, with her infant child, § 87(2)(b) as well as her three year old niece, before she heard a knock on the door. § 87(2)(b) opened the door to the apartment completely, holding her baby in her arms, and observed two police officers, known to the CCRB as PO Tafara Layne and PO Summer Powell, of the 115<sup>th</sup> Precinct. § 87(2)(b) was also present with the officers. PO Layne was described as a black female in uniform, standing approximately 5'5" tall, with a fat build and brown hair with highlights. PO Powell was described as a black female in uniform, slightly taller than PO Layne, with a slimmer build and black hair.

The officers asked § 87(2)(b) questions in English that she did not understand. § 87(2)(b) later stated that she understood all of the officers' questions. § 87(2)(b) asked § 87(2)(b) to translate for her. § 87(2)(b) attempted to tell § 87(2)(b) that she did not understand the officers' questions, but PO Layne instructed her not to speak to § 87(2)(b) and ordered § 87(2)(b) to put on sneakers. § 87(2)(b) stated, "Okay." She moved further into the house to put on her sneakers, but left the door open. She passed her baby to § 87(2)(b). Though § 87(2)(b) had not understood what the officers had said to her, she inferred that they were there to arrest her because of her earlier altercation with § 87(2)(b).

When § 87(2)(b) left the doorway, the officers entered the apartment behind her in order to see what she was doing. § 87(2)(b) stepped into the doorway to prevent the officers from entering and stated to them in English that they were not to enter because they did not have her permission. PO Layne pushed § 87(2)(b) out of the way by placing one hand on her lower ribs, and followed § 87(2)(b) into the apartment. § 87(2)(b) observed this because she was preparing to call her mother on her personal cell phone and was looking at the door. PO Layne removed § 87(2)(b)'s cell phone from her hand and placed it in her pocket. § 87(2)(b) recovered the phone after being released from custody.

PO Layne stood behind § 87(2)(b) while PO Powell stood in front of § 87(2)(b) and stated in English that § 87(2)(b) wanted to fight her. PO Powell then took hold of § 87(2)(b)'s right arm and yanked it to the side. § 87(2)(b) did not sustain any injuries as a result of this action. PO Powell did not grab her to move anywhere, but instead because she believed § 87(2)(b) wanted to fight with her and was attempting to defend herself. § 87(2)(b) made no statement to PO Powell before this occurred. At no point did § 87(2)(b) make any gestures or motions towards PO Powell. § 87(2)(b) asked PO Powell to let go so she could put on her shoes. PO Powell released § 87(2)(b). § 87(2)(b) put on her shoes, and placed her hands behind her back. PO Layne placed handcuffs on her. § 87(2)(b) did not resist being handcuffed and made no motions with her body or statements to either officer.

The officers escorted § 87(2)(b) downstairs to a waiting squad car. PO Powell placed § 87(2)(b) in the car and asked her questions that § 87(2)(b) did not understand. While § 87(2)(b) waited in the car with PO Powell, another officer, known to the CCRB as Sgt. Andrew Fitts of the 115<sup>th</sup> Precinct, arrived on the scene. Sgt. Fitts was a white male in uniform, standing approximately 5'5" tall, with a thin build and blonde-brown hair. PO Layne and Sgt. Fitts went back up to § 87(2)(b)'s apartment and searched for the phone she had taken from § 87(2)(b) in § 87(2)(b)'s purse and other unknown locations within the apartment. The officers did not recover the cell phone. § 87(2)(b) later stated that the officers searched § 87(2)(b)'s bed and on top of

the refrigerator. She did not believe the officers searched her bag because the phone was inside and the officers did not recover it. § 87(2)(b) did not witness the search of the apartment, but § 87(2)(b) reported it to her later. § 87(2)(b) estimated that officers were on scene for 20 minutes, and spent approximately eight minutes searching the apartment.

§ 87(2)(b) was transported to a stationhouse on Northern Boulevard in Queens. Several hours after arriving at the stationhouse, § 87(2)(b) was standing in front of the desk, with officers to her left and PO Layne to her right. There were officers behind the desk, as well as behind PO Layne. The officers behind PO Layne were guarding several additional prisoners. § 87(2)(b) was unable to estimate how many officers were present. A male officer asked PO Layne to transfer § 87(2)(b) to Central Booking, but § 87(2)(b) requested that another officer accompany her because she did not like the behavior PO Layne had exhibited towards her. She looked at PO Layne, who stated, “Bitch,” so that only § 87(2)(b) could hear. § 87(2)(b) did not believe that the male officer, or the officers behind the desk overheard this. The officer who processed § 87(2)(b)’s arrest, known to the CCRB as PO Patrick McCartan of the 115<sup>th</sup> Precinct was not present when PO Layne used profanity towards § 87(2)(b). The male officer later transported § 87(2)(b) to Central Booking. § 87(2)(b) stated that § 87(2)(b) belongs to § 87(2)(b) and her husband, § 87(2)(b).

**Victim:** § 87(2)(b)

- *At the time of the incident, § 87(2)(b) was a § 87(2)(b)-old Hispanic female, standing 5’3” tall, and weighing 135 pounds. She has brown hair, and brown eyes, § 87(2)(b)*

**CCRB Statement**

§ 87(2)(b) was interviewed at § 87(2)(b) in Queens on May 31, 2014. Her statement is summarized as follows (encl. C7 – C11).

On the date of the incident, two black female police officers, known to the CCRB as PO Tafara Layne and PO Summer Powell of the 115<sup>th</sup> Precinct, knocked on the door of § 87(2)(b)’s home. § 87(2)(b) as well as § 87(2)(b)’s one-year-old child, and § 87(2)(b)’s child were inside the apartment. § 87(2)(b) did not open the door, but she observed the officers through the peep hole. The officers stated through the door, “You have to open the door, we’re police officers.” Neither § 87(2)(b) nor § 87(2)(b) replied. The officers left.

The officers then returned and knocked on the door, stating, “You have to open the door. We have to take your sister out.” § 87(2)(b) opened the door approximately eight inches and leaned her head past the side of the door so that only her eyes were visible from the outside. In the hallway, § 87(2)(b) observed PO Layne, PO Powell and § 87(2)(b). There were no additional officers in the hallway. PO Powell stood 5’5” tall, with a slimmer build than PO Layne. PO Layne was 5’3” tall, with a fat build, weighing approximately 145 pounds.

§ 87(2)(b) asked the officers, “What’s going on?” PO Powell replied that they were at the apartment because § 87(2)(b) had stolen a cell phone. The officers stated, “You have to open the door. We have to speak to your sister.” § 87(2)(b) was standing immediately next to § 87(2)(b) behind the door. § 87(2)(b) crouched slightly to allow § 87(2)(b) to lean her head past the side of the door above her. § 87(2)(b) who speaks

minimal English stated, "I have proof. The phone is in my name." An officer stated that she did not care, and that § 87(2)(b) needed to give the cell phone to § 87(2)(b) and § 87(2)(b) both stated that the cell phone belonged to § 87(2)(b) was angry, and arguing with the officers, while § 87(2)(b) was calm. Neither she nor § 87(2)(b) was yelling.

An officer stated that either § 87(2)(b) needed to come out or they would go inside. § 87(2)(b) walked approximately six and one half feet away from the door back into the apartment and began to put her shoes on to go outside. No officer asked her to do this. § 87(2)(b) told the officers that § 87(2)(b) was getting her shoes to go outside, and then stated, "No, you cannot come inside my house. You have to bring some proof that it's not her cell phone." § 87(2)(b) bent down to pick up § 87(2)(b)'s baby, who was on the floor next to her behind the door. As she stood up, she leaned her head past the side of the door, which was still eight inches open, in order to look outside. An officer stated, "No. We have to see what your sister is doing" Both officers pushed the door open and entered the apartment, PO Layne first. The door pushed § 87(2)(b) causing her to stumble backwards into the wall. She did not fall to the floor. At no point prior to this did § 87(2)(b) walk away from the door. § 87(2)(b) remained in the hallway and did not speak. § 87(2)(b) did not attempt to close the door prior to the officers entering.

As the officers entered, § 87(2)(b) stated, "No, you can't do this." § 87(2)(b) stated, "I just gave it to him to be nice, and he can pay the phone bill." The officers stated, "We have to take you with us." As § 87(2)(b) was bent down to put her sneakers on, the officers pushed § 87(2)(b) while she was holding the baby. PO Layne, who had one hand on her gun, grabbed § 87(2)(b) by the right arm, and PO Powell grabbed her by the left arm. The officers stated, "You have to give him his phone. § 87(2)(b) replied, "No. It's my phone." The officers lifted § 87(2)(b) to a standing position. § 87(2)(b) began to look around the apartment for her purse, which contained a paper stating that the phone belonged to her. PO Powell maintained a grip on § 87(2)(b)'s arm as they moved through the room, while PO Layne looked around the apartment for the phone without touching anything.

§ 87(2)(b) located her purse on the couch and picked it up. The purse was black and measured approximately one foot long by one foot tall. PO Powell stated, "No, you can't look in your purse." PO Layne then took § 87(2)(b)'s purse and emptied the contents onto the floor by turning it upside down. § 87(2)(b)'s phone was not inside her purse, but § 87(2)(b)'s identification was. § 87(2)(b) finished putting her sneakers on and PO Layne placed handcuffs on her while PO Powell held both of her arms behind her back. § 87(2)(b) stood still while she was being handcuffed. The officers stated to § 87(2)(b) that if she did not return the phone, she would be taken to jail. § 87(2)(b) stated, "Then take me because that's my phone." The officers retrieved § 87(2)(b)'s identification from the floor.

PO Powell remained with § 87(2)(b) while PO Layne began to search the apartment for the cell phone by looking inside kitchen cabinets, the refrigerator, on top of the refrigerator, and under the covers of § 87(2)(b)'s bed. PO Layne entered the bathroom, but § 87(2)(b) was unable to see where in the bathroom PO Layne searched. While PO Layne searched the apartment, PO Powell looked around the apartment by moving her head, but did not touch anything. Neither PO Layne nor PO Powell recovered the phone, because § 87(2)(b)

§ 87(2)(b) had hidden it in her bed. The officers then took § 87(2)(b) out of the apartment.

§ 87(2)(b) did not close the door to the apartment after the officers left. She called her mother on her cell phone. She then walked onto her balcony and observed § 87(2)(b) being placed into an RMP. She then heard the phone allegedly stolen by § 87(2)(b) making an unusual noise. § 87(2)(b) retrieved the phone and observed PO Powell enter the apartment through the open door without asking permission, and holding her own cell phone. § 87(2)(b) turned the volume down on § 87(2)(b)'s cell phone and concealed it inside her shirt. She was still on the phone with her mother. PO Powell stated, "It's here. It says that it's in here."

While speaking to her mother on the phone, § 87(2)(b) also stated intermittently to PO Powell, "How come you're going to come again and look everywhere again?" PO Powell remained inside the apartment for three to four minutes, searching compartments in the way PO Layne had, before leaving the apartment. Following this, no other officers entered the apartment.

**Witness:** § 87(2)(b)

- *At the time of the incident, § 87(2)(b) was a § 87(2)(b)-old Hispanic male, standing 5'5" tall, and weighing 115 pounds. He has black hair, and green eyes, § 87(2)(b)*

**CCRB Statement**

§ 87(2)(b) was interviewed at § 87(2)(b) in Brooklyn, on May 30, 2014. His statement is summarized as follows (encl. C12 – C18).

On the date of the incident, § 87(2)(b) called the police to compel § 87(2)(b) whom he verified was inside of § 87(2)(b) in Queens, to return his cell phone. Two uniformed, dark-skinned female officers arrived on scene. One was taller and heavier, while the other was shorter and slimmer. Both appeared to be in their 30s, and have been identified by the investigation to be PO Tafara Layne and PO Summer Powell, of the 115<sup>th</sup> Precinct. The officers knocked on the apartment door. § 87(2)(b) stood in the hallway. § 87(2)(b) answered the door, opening it approximately halfway, and the officers asked her for the phone, but she refused to return it. § 87(2)(b) may have been standing in front of the door. § 87(2)(b)'s apartment is a studio approximately the size of § 87(2)(b)'s living room and kitchen combined (encl. C15 – C16).

Inside the apartment with § 87(2)(b) were § 87(2)(b) and § 87(2)(b)'s child, who was § 87(2)(b)-old at the time of the incident. § 87(2)(b) could not recall which, if either officer was the primary officer speaking to § 87(2)(b) and § 87(2)(b) was standing in front of the doorframe inside the apartment and screaming that the phone did not belong to § 87(2)(b) could not recall whether the officers responded, but believed they were trying to calm her.

§ 87(2)(b) and § 87(2)(b) did not exit the apartment at any point. The officers stated that § 87(2)(b) had to go with them, and instructed her to put on her shoes. § 87(2)(b) put her baby down, put her shoes on and exited the apartment, where she was handcuffed. The officers had no trouble handcuffing § 87(2)(b) who turned around on her own. No officer stated

that § 87(2)(b) wanted to fight her. § 87(2)(b) did not see either officer take her by the arm and pull her.

§ 87(2)(b) and the officers went downstairs, and § 87(2)(b) was placed inside of an RMP. § 87(2)(b) asked the officers if they could trace his phone. Either PO Layne or PO Powell lent § 87(2)(b) her cell phone and he used the “Find My iPhone” application to locate his phone inside the apartment. § 87(2)(b) could not recall which officer lent him a phone. Two more officers, identified by the investigation as Sgt. Andrew Fitts and PO Roberts, of the 115<sup>th</sup> Precinct, arrived on scene. Both were white males. When they arrived, they asked § 87(2)(b) the same questions that PO Layne and PO Powell had asked, including where he got the iPhone and whether he paid for it. § 87(2)(b) stated that the phone belonged to him. The officers stated to § 87(2)(b) inside the vehicle that they knew the phone was inside the apartment, and asked her to return it, but she refused. § 87(2)(b) did not overhear any officer ask § 87(2)(b) for identification, and § 87(2)(b) did not request that an officer retrieve her identification. § 87(2)(b) PO Layne and PO Powell then went back up to the apartment.

The officers knocked on the door to the apartment. When § 87(2)(b) answered the door, the officers asked her to return the phone. § 87(2)(b) stated that she did not know where the phone was. § 87(2)(b) stated that § 87(2)(b) opened the door completely the second time. He then stated he was not sure. He was unaware of where she was standing relative to the doorframe when she opened the door the second time. The officers then pushed the door, which was halfway open, and walked past § 87(2)(b) and into the apartment. § 87(2)(b) was unsure whether § 87(2)(b) gave them permission to do so. § 87(2)(b) was standing halfway behind the door when the officers pushed it open and entered. § 87(2)(b) later stated that he was unsure whether the officers pushed the door, or whether § 87(2)(b) opened it herself.

The officers instructed § 87(2)(b) to stand against the wall next to the apartment door before they entered, and was he therefore unsure whether § 87(2)(b) placed herself in front of the officers to block their entry, or whether § 87(2)(b) was pushed when the door opened. § 87(2)(b) could not recall whether § 87(2)(b) walked away from the door and into the apartment at any point prior to this. § 87(2)(b) could not recall whether § 87(2)(b) told the officers that they did not have permission to be inside the apartment.

§ 87(2)(b) did not observe the officers make any physical contact with § 87(2)(b) when they entered the apartment, but later stated that he could not say whether the officers pushed § 87(2)(b) out of the way in order to enter, but did not believe that this occurred. § 87(2)(b) looked through the half-opened door and into the apartment, but remained in the hallway. PO Layne and PO Powell looked around the apartment for the phone, but did not touch anything inside. § 87(2)(b) was only able to state that they looked at the couch in particular.

The apartment door closed. § 87(2)(b) was unsure who closed the door, but believed it was § 87(2)(b). § 87(2)(b) could not recall whether he overheard § 87(2)(b) protest the officers’ presence in her apartment prior to the door closing.

Downstairs, § 87(2)(b) entered Sgt. Fitts and PO Robert's RMP, while PO Layne and PO Powell transported § 87(2)(b). At that time, he observed either PO Layne or PO Powell holding § 87(2)(b)'s identification. He could not recall how the officer obtained the identification. § 87(2)(b) remained in the stationhouse for approximately 30 minutes. He did not see § 87(2)(b) apart from watching her fingerprints taken. He did not hear any conversation between § 87(2)(b) and either PO Layne or PO Powell. § 87(2)(b) never heard an officer request that PO Layne or PO Powell transport § 87(2)(b) to Central Booking. He did not hear either PO Layne or PO Powell refer to § 87(2)(b) as a bitch.

§ 87(2)(b) initially stated that the officers retrieved his phone for him. He later stated that his phone was never returned to him, and that § 87(2)(b) later posted on the internet that she was selling the phone. The officers, however, told § 87(2)(b) that he would get it back.

### **NYPD Statements:**

#### **Subject Officer: PO TAFARA LAYNE**

- *At the time of the incident, PO Tafara Layne was a § 87(2)(b).*
- *On the date of the incident, PO Layne was assigned to the 115<sup>th</sup> Precinct sector HI, with her partner, PO Powell. She was dressed in uniform, and assigned to marked RMP number 3822. She worked from 3:00 p.m. until 11:35 p.m. Since the date of the incident, PO Layne has been transferred to the 110<sup>th</sup> Precinct detective squad.*

#### **Memo Book**

PO Layne's memo book (encl. D6 –D7) contained the following entries regarding this incident: At 5:15 p.m., PO Layne received an assignment of a family dispute, at § 87(2)(b). At 6:00 p.m., one individual was arrested in regards to this assignment inside § 87(2)(b). The defendant was transported to the 115<sup>th</sup> Precinct.

#### **CCRB Statement**

PO Layne was interviewed at the CCRB (encl. D8 – D10) on September 20, 2013. Her statement is summarized as follows.

On the day of the incident, PO Layne and PO Powell responded to a call of a family dispute and met the complainant, § 87(2)(b) outside of a bodega, located at § 87(2)(b) in Queens. § 87(2)(b) stated that he and his girlfriend, § 87(2)(b) had had a fight the previous night, and that she had taken his iPhone. PO Layne asked where the § 87(2)(b) lived and § 87(2)(b) pointed to § 87(2)(b). § 87(2)(b) stated that he knew which apartment § 87(2)(b) lived in, and that § 87(2)(b) was at home.

The officers went to the apartment and knocked on the door. § 87(2)(b) accompanied them to identify § 87(2)(b) and indicate which apartment was hers. § 87(2)(b) and § 87(2)(b) were inside the apartment. PO Layne was unsure which of them answered the door. § 87(2)(b) and § 87(2)(b) exited the apartment and stood in the hallway with PO Layne and PO Powell. PO Layne asked § 87(2)(b) if she had § 87(2)(b)'s phone. § 87(2)(b) replied that she did not. § 87(2)(b) stated, "I know you have my phone, just give me my phone." § 87(2)(b) responded to § 87(2)(b) but PO Layne tried to limit their interaction by instructing each not to speak to the other. § 87(2)(b) stated to PO Layne, "Well, I'm not giving him back the phone." PO Layne asked, "Why not?" § 87(2)(b) replied, "Because he



doesn't take care of his kids. If he doesn't pay for his kids, he doesn't get the phone." PO Layne stated, "That's really not the issue, you need to give him the phone." She issued no further explicit directives to § 87(2)(b) replied, "I'm not giving him anything." PO Layne stated, "Okay." PO Layne had no trouble communicating with § 87(2)(b) in English, and each of them understood the other.

§ 87(2)(b) tried to offer information multiple times. PO Layne stated to her, "Mind your business, this has nothing to do with you," but had no further conversation with her. § 87(2)(b) closed the door to the apartment and § 87(2)(b) and the officers went back downstairs. The entire initial conversation with § 87(2)(b) occurred with all parties standing in the hallway, and lasted three to four minutes.

PO Layne requested that a sergeant respond to the location. Either PO Layne or PO Powell used the "Find My iPhone" application, and determined that § 87(2)(b)'s phone was inside § 87(2)(b)'s building. Sgt. Fitts, the patrol sergeant, arrived, and PO Layne informed him of the situation. PO Layne, PO Powell and Sgt. Fitts then proceeded up the stairs again and knocked on the door. § 87(2)(b) remained outside with Sgt. Fitts's driver, identified as PO Ray Roberts, of the 115<sup>th</sup> Precinct. Either § 87(2)(b) or § 87(2)(b) answered the door. The officers stated to § 87(2)(b) who was at the door, that they knew the phone was inside the apartment and if she did not return it she would, "get locked up." The door was approximately three quarters of the way opened, and the female who had answered it was standing adjacent to the edge of the door. PO Layne had a clear line of sight into the apartment, which consisted of one, small room.

All three officers then walked into the apartment. At the time the officers entered the apartment, § 87(2)(b) was standing in the middle of the room. She made a phone call and placed her phone inside of a purse sitting on the bed in the room. This was not the same phone taken from § 87(2)(b) and § 87(2)(b) did not appear to respond in any particular way to the officers entering the apartment. § 87(2)(b) at no point used her body to obstruct the officers from entering the apartment, and they had no physical contact with her. PO Layne had no conversation with § 87(2)(b) and she was unaware of whether or not PO Powell did. § 87(2)(b) stated, "Why are you here? I'm not giving him the phone. He doesn't take care of his kids. I don't care." PO Layne replied, "You don't care? Okay, cool, put your hands behind your back, you're going to jail." This conversation lasted between one and two minutes.

§ 87(2)(b) did not resist her hands being placed behind her back. She was then handcuffed. PO Layne asked § 87(2)(b) for identification, but she did not respond. PO Layne began to look through § 87(2)(b)'s purse for identification. While doing so, she observed an iPhone in the purse. She asked § 87(2)(b) if it was the phone taken from § 87(2)(b) made a noise of disgust, but did not answer. She was then escorted to the RMP without incident. § 87(2)(b) identified the phone removed from § 87(2)(b)'s purse as belonging to him.

PO Layne and PO Powell transported § 87(2)(b) back to the 115<sup>th</sup> Precinct stationhouse. They handed over custody of § 87(2)(b) to PO McCartan at the front desk. To the best of PO Layne's recollection, she and PO Powell then immediately went back out on patrol. PO Layne had no conversation with § 87(2)(b) inside the stationhouse. PO Layne did not call § 87(2)(b) a "bitch." Neither she, nor PO Powell used any profanity towards § 87(2)(b). Neither PO Layne nor PO Powell was assigned to transport § 87(2)(b) to Central Booking.

**Subject Officer: PO SUMMER POWELL**

- *At the time of the incident, PO Summer Powell was a § 87(2)(b) [REDACTED]*
- *On the date of the incident, PO Powell was assigned to the 115<sup>th</sup> Precinct sector HI with her partner, PO Layne. She was dressed in uniform and assigned to marked RMP number 3822. She worked from 3:00 p.m. until 11:36 p.m. Since the date of the incident, PO Powell has been transferred to the 108<sup>th</sup> Precinct.*

**Memo Book**

PO Powell's memo book (encl. D1 – D3) contains the following entries concerning this incident: At 5:15 p.m., PO Powell received a call for a family dispute at § 87(2)(b) [REDACTED]. One individual was subsequently arrested in front of the location. At 8:13 p.m., PO Powell returned to the stationhouse in regards to an unrelated assignment. At 9:15 p.m., she prepared a complaint report and other paperwork. She ended her tour at 11:35 p.m.

**CCRB Statement**

PO Powell was interviewed at the CCRB (encl. D4 –D5) on September 13, 2013. Her statement is summarized as follows.

PO Powell had no independent recollection of the incident or any other assignment she performed on the night of the incident. She did not recall responding to the incident location on the night of the incident. She was shown a photograph of § 87(2)(b) [REDACTED] but was unable to recognize her from the image. Neither § 87(2)(b) [REDACTED]'s arrest report, nor the SPRINT pertaining to this incident, nor a description of the incident assisted in refreshing her memory. PO Powell stated throughout her interview that she could only be guided by her memo book entry.

**Subject Officer: SGT ANDREW FITTS**

- *At the time of the incident, Sgt. Andrew Fitts was a § 87(2)(b) [REDACTED]*
- *On the date of the incident, Sgt. Fitts was assigned as the 115<sup>th</sup> Precinct patrol supervisor, with his operator, PO Roberts. He was dressed in uniform, and assigned to marked RMP number 5446. He worked from 2:50 p.m., until 11:47 p.m.*

**Memo Book**

Sgt. Fitts's memo book (encl. D26 – D27) contains the following entries regarding this incident: At 5:42 p.m., Sgt. Fitts responded to § 87(2)(b) [REDACTED] in Queens at the request of officers assigned to sector H. At 6:00 p.m., an arrest was made by the officers from sector H, and one male was transported to the 115<sup>th</sup> Precinct.

**CCRB Statement**

Sgt. Fitts was interviewed at the CCRB (encl. D28 – D29) on December 26, 2013. His statement is summarized as follows.

On the date of the incident, Sgt. Fitts responded to § 87(2)(b) [REDACTED] in Queens. When he arrived, he observed PO Layne and PO Powell. § 87(2)(b) [REDACTED] was in custody in the back of their RMP. PO Layne explained to Sgt. Fitts that § 87(2)(b) [REDACTED] claimed that § 87(2)(b) [REDACTED] had stolen his cell phone. PO Layne and PO Powell had gone to § 87(2)(b) [REDACTED]'s apartment and asked her if she had the phone. She had stated that she did, and was subsequently arrested. PO Layne explained that she and PO Powell had attempted to use the "Find my iPhone" application to locate the phone. Sgt.

Fitts was unsure whether or not this had been successful. PO Layne told Sgt. Fitts that § 87(2)(b) did not have identification on her.

§ 87(2)(b) stated that her identification was inside her apartment, in a brown clutch purse. She asked the officers to go to the apartment to retrieve it. § 87(2)(b) indicated that the apartment belonged to her. § 87(2)(b) described his phone to Sgt. Fitts and PO Layne, who then went upstairs to the apartment. They knocked on the door and were greeted by § 87(2)(b) who was talking on her cell phone. The officers asked if they were at the apartment of § 87(2)(b) and § 87(2)(b) stated that they were. The officers explained that they were there to retrieve § 87(2)(b)'s identification and asked if they could come inside to do so. § 87(2)(b) allowed them into the apartment. At no point did either PO Layne or Sgt. Fitts make physical contact with § 87(2)(b) inside the apartment, and at no point did she express any hesitation regarding their entry into the apartment or attempt to prevent them from entering.

Sgt. Fitts stayed in the doorway with § 87(2)(b) but neither he nor PO Layne had any further substantive conversation with her. The front room of the apartment measured approximately twelve feet by twelve feet, and Sgt. Fitts was able to see the purse § 87(2)(b) described on the bed in the room. PO Layne proceeded to the bed and removed § 87(2)(b)'s identification and § 87(2)(b)'s phone from the purse. The officers then left the apartment. § 87(2)(b) was subsequently transported to the 115<sup>th</sup> Precinct stationhouse with PO Layne and PO Powell. Sgt. Fitts resumed patrol.

**Witness Officer: PO PATRICK MCCARTAN**

- *At the time of the incident, PO Patrick McCartan was a § 87(2)(b)*
- *On the date of the incident, PO McCartan was assigned to the 115<sup>th</sup> Precinct sector C with his partner, PO Brian O'Neill. He was dressed in uniform and assigned to marked RMP number 1438. He worked from 3:00 p.m., until 11:35 p.m.*

**Memo Book**

PO McCartan's memo book (encl. D11 – D12) contains the following entries regarding this incident: At 6:30 p.m., PO McCartan arrived at the 115<sup>th</sup> Precinct to process the arrest of § 87(2)(b) in regards to a family dispute assigned to sector HI on 37<sup>th</sup> Avenue. At 8:00 p.m., § 87(2)(b) called her mother from the stationhouse. At 8:33 p.m., § 87(2)(b)'s fingerprints were taken. At 8:43 p.m., her picture was taken. PO McCartan subsequently completed the remaining arrest processing paperwork.

**Arrest Report and UF61**

§ 87(2)(b)'s arrest report (encl. D13 – D15), prepared by PO McCartan, notes that on March 27, 2013, at the northeast corner of Jamaica Avenue and Woodhaven Boulevard in Queens, § 87(2)(b) forcibly removed § 87(2)(b)'s iPhone, worth \$600, by snatching it from his hand. § 87(2)(b)'s home address is listed as § 87(2)(b) in Queens. She was charged with grand larceny. The arrest report notes that § 87(2)(b) is not proficient in English. UF61 number § 87(2)(b) (encl. D16 – D17) is consistent with this narrative.

**Domestic Incident Report**

PO McCartan prepared a domestic incident report (encl. D19 – D20) in regards to this incident. At 2:00 a.m. on March 27, 2013, at the corner of Jamaica Avenue and Woodhaven Boulevard in

Queens, § 87(2)(b)'s cell phone was taken from him by his ex-girlfriend, § 87(2)(b). § 87(2)(b) stated she would give the phone back, but did not do so when § 87(2)(b) went to retrieve it. PO McCartan's statement on the report adds that § 87(2)(b) and § 87(2)(b) were engaged in a verbal argument, when § 87(2)(b) forcibly snatched his phone from § 87(2)(b)'s hand, and refused to return it. She was charged with grand larceny. The automated DIR (encl. D18; D21 – D23) is consistent with its handwritten counterpart.

### **CCRB Statement**

PO McCartan was interviewed (encl. D24 – D25) at the CCRB on September 24, 2013. His statement is summarized as follows.

On the day of the incident, PO McCartan received instructions to return to the 115<sup>th</sup> Precinct stationhouse from patrol to meet PO Layne and PO Powell to process an arrest. PO Powell and PO Layne brought § 87(2)(b) and § 87(2)(b) into the stationhouse, and PO McCartan arrived afterwards, meeting them at the desk.

PO McCartan spoke to § 87(2)(b) and then began the paperwork for the arrest. PO McCartan believed that PO Layne and PO Powell resumed patrol after transferring custody of § 87(2)(b) but was unsure. He was unable to recall how long he, PO Powell and PO Layne were in the stationhouse simultaneously.

PO McCartan moved § 87(2)(b) to the cells and allowed her to call her mother within minutes of arriving at the stationhouse. Though § 87(2)(b) was not fully fluent in English, the arrest processing went smoothly, and no other officer assisted PO McCartan. § 87(2)(b) did not protest any part of the process. At no time did § 87(2)(b) complain to PO McCartan about PO Layne, PO Powell, or any other officer.

PO McCartan was unsure whether § 87(2)(b) was transported to Central Booking before or after the end of his tour and did not know who transported her. PO McCartan did not recall PO Layne or PO Powell returning to the stationhouse before the end of his tour, and he did not observe any further conversation between either of them and § 87(2)(b) after taking custody of her. PO McCartan did not hear any officer, including PO Layne or PO Powell call § 87(2)(b) a “bitch,” or use any profanity towards her.

### **NYPD Documents**

#### **Roll Call**

The tour 3 roll call from the 115<sup>th</sup> Precinct (encl. E28 – E38) on the date of incident reveals that PO McCartan and PO O'Neill were assigned to sector CDE in RMP number 1438. PO Layne and PO Powell were assigned to sector HI in RMP number 3822. Sgt. Fitts was assigned as the patrol supervisor in RMP number 5446, with his operator, PO Roberts.

#### **Command Log**

The command log (encl. E6 – E20 ) from the 115<sup>th</sup> Precinct on the night of the incident, notes that § 87(2)(b) arrived at the precinct at 6:05 p.m. on March 27, 2013, and departed for Central Booking Queens at 9:10 p.m. in RMP number 8744. She was charged with petit larceny. § 87(2)(b) is listed as residing at § 87(2)(b), but was arrested at § 87(2)(b). One piece of property was removed from her.

### **Prisoner Holding Pen Roster**

The prisoner holding pen roster from the 115<sup>th</sup> Precinct (encl. E21 – E23) on the date of the incident reveals that § 87(2)(b) entered the cells at 6:05 p.m. She was last checked at 9:00 p.m. and removed to Central Booking Queens at 9:10 p.m. in RMP number 8744. PO McCartan was the officer assigned to guard § 87(2)(b)

### **Additional Memo Books**

PO O'Neill's memo book (encl. E24 – E27) from the date of incident reveals that at 6:30 p.m., his partner made an arrest at the 115<sup>th</sup> Precinct.

### **911 recording / SPRINT CD**

911 RECORDING: § 87(2)(b) called 911 at 5:13 p.m. on March 27, 2013, and reported that § 87(2)(b) had taken his phone during an incident the previous evening, and was refusing to return it. He called from inside a grocery store, located at § 87(2)(b) on Queens, down the street from the § 87(2)(b)'s location. § 87(2)(b) called from a bystander's cellphone.

#### **SPRINT PRINTOUT:**

SPRINT number W10275 (encl. E1) was generated on March 27, 2013.

5:13 p.m. – § 87(2)(b) called 911 to state that his ex-wife had taken his phone and refused to return it.

5:25 p.m. – Unit 115H arrived at 111-12 37<sup>th</sup> Avenue in Queens.

5:42 p.m. – Unit 115H made an arrest at § 87(2)(b) Unit 115ST1 notes a family offense arrest made.

6:00 p.m. – 115H transports one female to the 115<sup>th</sup> Precinct stationhouse.

6:01 p.m. – Unit 115ST1 transported § 87(2)(b) to the 115<sup>th</sup> Precinct stationhouse.

6:31 p.m. – Unit 115H transmitted a final disposition of a family related arrest.

#### **SPRINT RECORDING:**

05:28 – 115H requests a callback for an assignment at 111<sup>th</sup> Street, then tells the dispatcher to disregard.

22:05 – 115H transmits an arrest in front of § 87(2)(b) and requests a patrol supervisor. 115ST1 states he is responding.

27:28 – 115H states they are holding one person in regards to their assignment.

40:28 – 115H transmits an arrest verified by a sergeant. The time is 6:00 p.m. 115H then transports one female to the 115<sup>th</sup> Precinct.

40:48 – 115ST1 states he is transporting the complainant to the 115<sup>th</sup> Precinct stationhouse.

### **Arrest Photograph** (encl. E3)

§ 87(2)(b) was arrested on March 27, 2013, under arrest number § 87(2)(b), and charged with grand larceny. The arrest is noted to have taken place in the 102<sup>nd</sup> Precinct, the location of the initial dispute which precipitated the incident.

### **Property Vouchers**

No property vouchers were prepared in regards to § 87(2)(b)'s arrest (encl. J9).

### **Summons/Arrest for Incident and Disposition**

- The Office of Court Administration records indicate that § 87(2)(b) pled guilty to one count of disorderly conduct on June 18, 2013. She received a conditional discharge, and a final order of protection was issued (encl. G3). § 87(2)(b)

§ 87(2)(b)

- ADA Angela Harper stated that § 87(2)(b) was sentenced to time served, after pleading guilty on June 18, 2013.

#### **Status of Civil Proceedings**

- As of April 30, 2014, no responsive notice of claim has been filed with the office of the New York City Comptroller in regards to § 87(2)(b) or § 87(2)(b) (encl. F1).

#### **Civilian Criminal History**

- As of March 28, 2014, Office of Court Administration records reveal no criminal convictions for § 87(2)(b) apart from the above (encl. G6 – G9).

#### **Civilians CCRB History**

- This is the first CCRB complaint filed by § 87(2)(b) or § 87(2)(b) (encl. B4 – B6).

#### **Subject Officers CCRB History**

- In PO Tafara Layne's nine years as a member of the service, the CCRB has not substantiated any allegations against her (encl. B1).
- In PO Summer Powell's eight years as a member of the service, the CCRB has not substantiated any allegations against her (encl. B2).
- In Sgt. Andrew Fitts's eight years as a member of the service, the CCRB has not substantiated any allegations against him (encl. B3).

### **Conclusion**

#### **Identification of Subject Officers**

PO Layne acknowledged that she and PO Powell entered § 87(2)(b)'s apartment. Both PO Layne and Sgt. Fitts stated that Sgt. Fitts entered the apartment as well. Allegations A, B and C are therefore pleaded against PO Powell, PO Layne and Sgt. Fitts respectively. § 87(2)(b) described the officer who pushed § 87(2)(b) and subsequently used profanity towards § 87(2)(b) as a black female, standing 5'5" tall, with a fat build and brown hair with highlights. PO Layne, who is a black female standing 5'4" tall and weighing 175 pounds, more closely matches this description than PO Powell, who is a black female, standing 5'8" tall, and weighing 165 pounds. PO Powell, however, matches § 87(2)(b)'s description of a black female, slightly taller and slimmer than PO Layne. PO Layne and Sgt. Fitts acknowledged that PO Layne searched § 87(2)(b)'s purse for identification. Allegations D through F are therefore pleaded against PO Layne.

#### **Investigative Findings and Recommendations**

**Allegation A) Abuse of Authority: PO Summer Powell entered and searched § 87(2)(b) in Queens.**

**Allegation B) Abuse of Authority: PO Tafara Layne entered and searched § 87(2)(b) in Queens.**

It is undisputed that PO Powell and PO Layne responded to § 87(2)(b) and arrested § 87(2)(b) based on the complaint of § 87(2)(b)'s boyfriend, § 87(2)(b) who alleged that § 87(2)(b) stole his iPhone.

According to § 87(2)(b) PO Layne and PO Powell arrested her inside of § 87(2)(b)'s apartment and then the officers returned and searched for the missing phone while she was in the patrol car. The officers asked § 87(2)(b) questions she did not understand, PO Layne then ordered her to put her sneakers on and § 87(2)(b) left the apartment door completely open and went to put on her sneakers. The officers entered behind her but § 87(2)(b) tried to stop them. PO Layne pushed § 87(2)(b) out of the way and followed § 87(2)(b) into the apartment where she handcuffed her. § 87(2)(b) later told § 87(2)(b) that the officers returned and searched for the missing phone, which was never recovered.

According to § 87(2)(b) the officers arrested § 87(2)(b) only after returning to the apartment after § 87(2)(b) and § 87(2)(b) refused to answer the door. Upon returning, the officers said that § 87(2)(b) needed to come out or they would go inside. § 87(2)(b) walked back into the apartment and began to put her shoes on. The officers entered by pushing the door, which had been open approximately eight inches, open causing § 87(2)(b) to stumble backwards. § 87(2)(b) had not tried to close the door prior but told the officers they could not do this.

§ 87(2)(b) further stated that the officers helped § 87(2)(b) look for her purse and upon locating it, PO Layne emptied it onto the floor and retrieved § 87(2)(b)'s identification. PO Layne searched the apartment while § 87(2)(b) was there but did not find the phone. Shortly after the officers and § 87(2)(b) left, only PO Powell returned, while § 87(2)(b) was on the phone, and entered by walking through the open apartment door. PO Powell was holding her own cell phone as she entered and the stolen phone was making an unusual noise. PO Powell looked around but could not find the stolen phone because § 87(2)(b) hid it.

§ 87(2)(b) partially corroborated § 87(2)(b)'s account in that he stated PO Layne and PO Powell arrested § 87(2)(b) the first time that they went to the apartment and then returned shortly afterwards to find the stolen phone. § 87(2)(b) opened the door halfway in order to speak with the officers. She refused to return the phone and the officers told her that she had to go with them and to put on her shoes. § 87(2)(b) complied, exited the apartment and was handcuffed in the hallway. § 87(2)(b) and both PO Layne and PO Powell then returned to look for the stolen phone using the "Find My iPhone" application but were unsuccessful.

According to PO Layne, § 87(2)(b) was arrested the second time the officers went to the apartment after § 87(2)(b) refused to return the phone and when the officers returned using the "Find My iPhone" application. The first time the officers went to the apartment, the officers, § 87(2)(b) and § 87(2)(b) spoke in the hallway. The officers and § 87(2)(b) then went back downstairs and tracked the phone. PO Layne, PO Powell and Sgt. Fitts returned to the apartment and told § 87(2)(b) who was at the door which was approximately three quarters of the way open, that they would arrest her if she did not return the phone. At the time the officers entered, § 87(2)(b) was in the middle of the room where the officers handcuffed her. § 87(2)(b) and § 87(2)(b) did not respond to the officers' entry. PO Layne found the stolen phone when she looked in § 87(2)(b)'s purse for identification after § 87(2)(b) ignored PO Layne's request for her identification.

Sgt. Fitts confirmed that § 87(2)(b) was already in custody in the back of the patrol car when he arrived. PO Layne explained she and PO Powell tried using the "Find My iPhone" application

but Sgt. Fitts was unsure as to whether they successfully tracked the phone. After PO Layne informed Sgt. Fitts that § 87(2)(b) did not have identification, § 87(2)(b) asked the officers to retrieve it from her pocketbook inside of the apartment. The officers knocked on the door and § 87(2)(b) who was on her cellphone, greeted them. § 87(2)(b) allowed the officers to enter to retrieve § 87(2)(b)'s identification. At no point did she express any hesitation regarding their entry or try to prevent them from coming inside. Sgt. Fitts stayed in the doorway with § 87(2)(b) while PO Layne went to the bed and removed § 87(2)(b)'s identification and the stolen phone from the purse.

PO Powell did not have an independent recollection of the incident, and no officer indicated that the apartment was searched. PO Layne recalled going to § 87(2)(b)'s apartment twice, she stated she arrested § 87(2)(b) the second time the officers went there and that Sgt. Fitts was present for the arrest. PO Layne's unit, however, transmitted § 87(2)(b)'s arrest and only then requested a patrol supervisor respond. Based on the Sprint Report, § 87(2)(b)'s statement that Sgt. Fitts did not arrive until after she was placed in the patrol car which Sgt. Fitts confirmed, the investigation determined that PO Layne's testimony is erroneous on this point.

Although § 87(2)(b) stated that the officers arrested § 87(2)(b) in the hallway, § 87(2)(b) as well as PO Layne all testified that the officers arrested § 87(2)(b) inside the apartment. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

PO Layne denied that any civilian protested the entry and stated that the door was completely open when she entered. Given § 87(2)(b)'s proximity to the door and his account of § 87(2)(b)'s agitated demeanor regarding the phone, it is likely that § 87(2)(b) would have heard her protest the officers entry. PO Powell did not recall the incident and Sgt. Fitts was not present for the first entry when the officers arrested § 87(2)(b) § 87(2)(b), § 87(2)(g)

Although PO Layne did not specifically account for how § 87(2)(b) came to move from the door to the middle of the apartment when they entered and arrested her, § 87(2)(b), § 87(2)(g)

While § 87(2)(b) stated that § 87(2)(b) did this on her own and that the officers did not order her to do so, § 87(2)(b) confirmed that the officers instructed her to put on her sneakers. § 87(2)(b), § 87(2)(g)

PO Layne did not testify to any search of the apartment, and stated she recovered the stolen phone in § 87(2)(b)'s purse when she looked inside for § 87(2)(b)'s identification. All of the civilians stated, however, that the officers never recovered the stolen phone. PO Layne did not testify to returning to the apartment after arresting § 87(2)(b) stated



that officers searched the apartment and § 87(2)(b)'s purse while § 87(2)(b) was there and then only PO Powell returned and looked around the apartment, but § 87(2)(b) stated that she was not present for any search. § 87(2)(b) noted that the officers returned to the apartment after the arrest and looked at the couch but the apartment door closed and he could not see what was happening inside. He believed that § 87(2)(b) closed the door. § 87(2)(b), § 87(2)(g)

Officers are prohibited from making warrantless, nonconsensual entries into a home in order to make a routine arrest, absent exigent circumstances. Turning away from an apartment door in response to an officer's request for identification may be considered tacit consent for the officers to enter. People v. Smith, 239 A.D.2d 219 (App. Div. 1<sup>st</sup> Dep't. 1997) (encl. A1 – A4).

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation C) Abuse of Authority: Sgt. Andrew Fitts entered and searched § 87(2)(b) in Queens.**

**Allegation D) Abuse of Authority: Inside § 87(2)(b) in Queens, PO Tafara Layne searched the property of § 87(2)(b)**

It is undisputed that PO Layne looked in § 87(2)(b)'s purse after § 87(2)(b) was handcuffed. It is § 87(2)(b), § 87(2)(g)

§ 87(2)(b) stated that § 87(2)(b) told her that PO Layne and Sgt. Fitts searched the apartment and her purse. § 87(2)(b) stated that § 87(2)(b) began to look around the apartment for her purse, which contained a paper stating that the phone belonged to her. PO Powell held onto § 87(2)(b) as they moved through the room. § 87(2)(b) found her purse on the couch and picked it up but PO Powell would not let her look inside. PO Layne emptied the purse in § 87(2)(b)'s presence and found § 87(2)(b)'s identification. § 87(2)(b) did not allege that Sgt. Fitts entered the apartment at any point.

PO Layne acknowledged looking in § 87(2)(b)'s purse after handcuffing § 87(2)(b) but stated that she did so in § 87(2)(b)'s presence, to find § 87(2)(b)'s identification, and only after § 87(2)(b) failed to respond to a request for identification.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g) According to Sgt. Fitts, § 87(2)(b) described her purse, and asked the officers to retrieve her identification from inside the apartment. Sgt. Fitts stated that he entered the apartment with § 87(2)(b)'s consent and remained in the doorway, while PO Layne removed § 87(2)(b)'s identification from the purse.

§ 87(2)(b), § 87(2)(g)

Officers may search closed containers, including a bag, incident to a lawful arrest only in light of exigencies concerning the safety of bystanders and officers, or the possibility of concealment or destruction of evidence. People v. Gokey, 60 NY2d 309 (1983) (encl. A46 – A49)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation E) Discourtesy: At the 115<sup>th</sup> Precinct stationhouse, PO Tafara Layne spoke discourteously to § 87(2)(b)**

§ 87(2)(b) alleged that PO Layne referred to her as a “bitch” after she protested PO Layne transporting her to Central Booking. This occurred in front of the stationhouse desk when PO McCartan was not present. An unknown number of officers were present, but § 87(2)(b) did not believe they overheard PO Layne’s comment.

PO Layne denied using profanity towards § 87(2)(b) or that she was ever assigned to transport her to Central Booking. She believed that she immediately resumed patrol upon turning custody of § 87(2)(b) over to PO McCartan at the 115<sup>th</sup> Precinct stationhouse desk. PO McCartan stated that he received custody of § 87(2)(b) at the 115<sup>th</sup> Precinct stationhouse desk, at which point, he believed PO Layne resumed patrol. He then processed her arrest and denied that he heard any officer use profanity towards her or that she complained about PO Layne to him.

PO Powell’s memo book demonstrates that her unit returned to the 115<sup>th</sup> Precinct stationhouse for administrative duties from 8:13 p.m., until 9:15 p.m., encompassing the time of § 87(2)(b)'s transport to Central Booking at 9:11 p.m. § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

\_\_\_\_\_

\_\_\_\_\_

Team: 4

Investigator: \_\_\_\_\_ Andrew Guinan 6/16/2014  
Signature Print Date

Supervisor: \_\_\_\_\_  
 Title/Signature                      Print                      Date

Reviewer: \_\_\_\_\_  
 Title/Signature                      Print                      Date

Reviewer: \_\_\_\_\_

Title/Signature	Print	Date
-----------------	-------	------